

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Appeal No.578-SB of 1995

Date of Decision: March 20, 2007

Bal Krishan

...Appellant

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.S.S.Narula, Advocate,
for the appellant.

Mr.Yashwinder Singh, AAG, Haryana,
for the State.

RANJIT SINGH, J.

Appellant Bal Krishan was caught by SI Zile Singh on the basis of a secret-information, while he was allegedly manufacturing spurious and adulterated fertilizer. The appellant was apprehended at the spot in a building of Diwan Chand in Industrial Area, Sirsa. Number of fertilizer bags of various marks alongwith some empty bags and two bags closer machines were taken in custody. A message was sent to Harbir Singh SDO (Agriculture), who reached

the spot and took three samples from each of the six kinds of fertilizer. The same were duly sealed. Even the empty bags of fertilizer were taken in possession alongwith the entire fertilizer. The investigation was accordingly conducted and ultimately the prosecution and trial of the appellant followed under Section 7 of the Essential Commodities Act, 1955. After trial, the appellant was found guilty and sentenced to suffer RI for two years coupled with Rs.5000/- as fine. The appellant has filed the present appeal challenging his conviction and sentence.

Mr.S.S.Narula, the learned counsel appearing for the appellant has, at the outset, submits that this is an old case of the year 1989 and the appellant was convicted since 1995. The counsel, as such, has not made any submission on merits and pleads for mercy and leniency for the appellant. The counsel prays that at this belated stage, sentence would not serve any purpose and so the appellant be released on probation. In support of his submission, the counsel has relied upon **Rajinder Vs. State of Haryana, 2004(4) RCR (Criminal) 910, Virender Kumar Vs. State of Haryana, 2004 (2) RCR (Criminal) 775 and Full Bench decision of this Court in Joginder Singh Vs. The State of Punjab, 1980 C.L.R. 196**, where such a course was directed.

The learned State counsel would not have any serious objection to the course as suggested by the counsel for the appellant.

This is a case where the FIR was registered on 5.12.1989. The appellant had faced prosecution for over five years and ultimately was convicted on 18.9.1995. He is in appeal since

October, 1995 when sentence awarded to the appellant was suspended. The appellant was 28 years old at the time of framing of charges and is now aged 44 years. There is no other allegation against the appellant either before or after this incident. Concededly he has faced this prosecution for over seventeen years. The appellant has suffered this prosecution and agony for considerably long period. He obviously has remained under constant threat of instant conviction and sentence. Asking him to undergo sentence at this stage is not likely to serve any useful purpose. Considering the delay in disposal of the case, this court in number of cases has directed release of the persons concerned either on probation or by reducing the sentence.

Accordingly, the appellant is directed to be released on probation for a good conduct instead of sentencing him. He will appear before the Chief Judicial Magistrate, Sirsa within fifteen days and enter into a bond with one surety to appear and receive the sentence when called upon during the period of one year for the purpose in question. The bond for this period shall be executed before the Sub Divisional Magistrate, Sirsa within one month of this order.

The appeal is accordingly disposed of.

March 20, 2007
ramesh

(RANJIT SINGH)
JUDGE